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UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD DISTRIBUTION ADMINISTRATION

Service and Regulatory Announcements No. 164

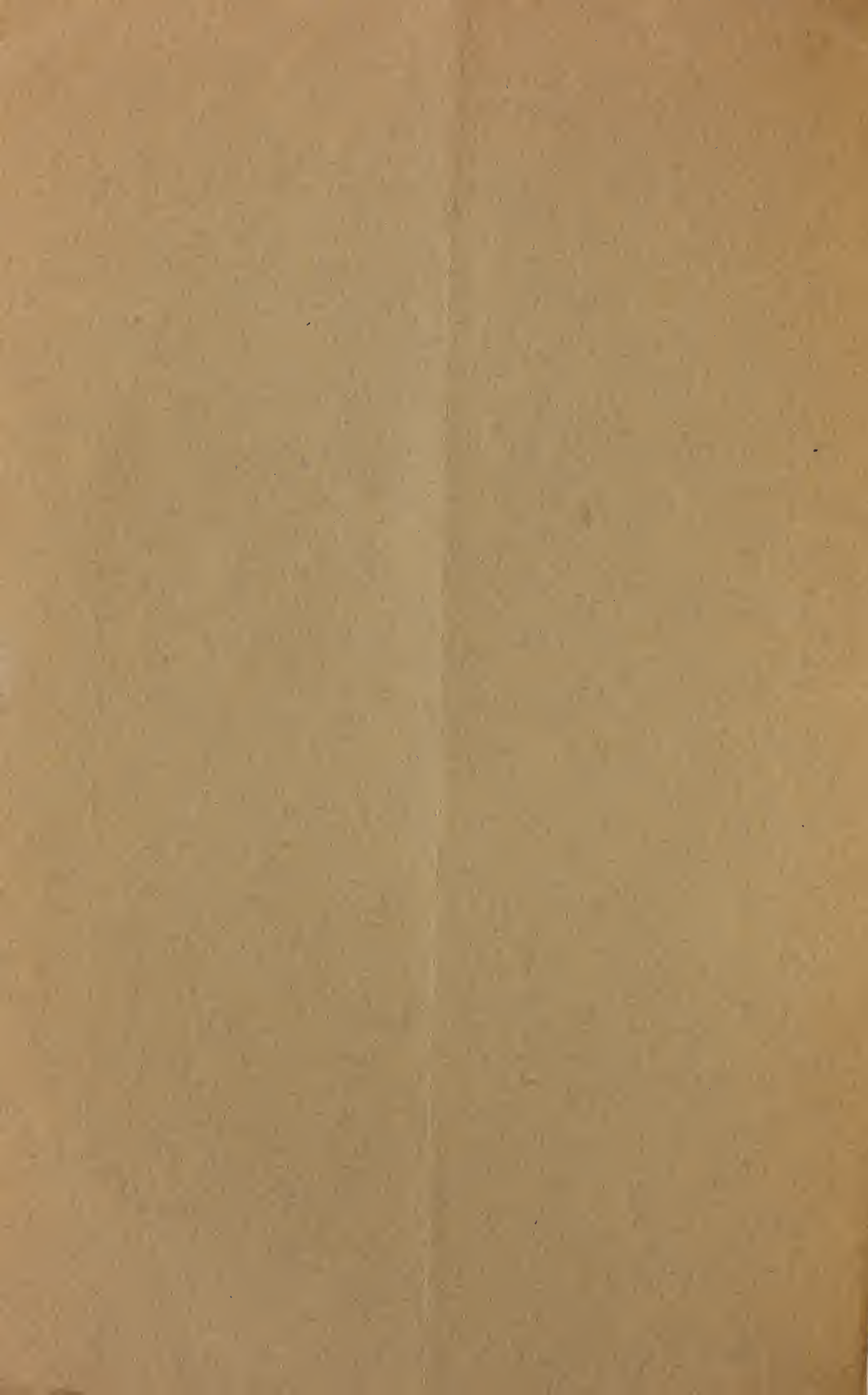
**REGULATIONS UNDER
THE PACKERS AND STOCKYARDS ACT
AS AMENDED**

Effective on and after January 8, 1943

**PACKERS AND STOCKYARDS ACT, 1921, AS AMENDED
1926, 1935, 1939, AND 1942**

**(42 Stat. 159, as amended; 7 U. S. C. 1940 ed. 181-231; and Public Law 615, 77th Cong.,
Ch. 421, 2d sess., approved June 19, 1942)**





United States Department of Agriculture

FOOD DISTRIBUTION ADMINISTRATION

SERVICE AND REGULATORY ANNOUNCEMENTS 164

REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT, AS AMENDED

GENERAL RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE WITH RESPECT TO STOCKYARD OWNERS, MARKET AGENCIES, DEALERS, LICENSEES, AND PACKERS

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C.

By virtue of the authority vested in the Secretary of Agriculture by the Packers and Stockyards Act, 1921 (42 Stat. 159, as amended; 7 U. S. C. 1940 ed. secs. 181-231), and Public Law 615, 77th Congress, Chapter 421, Second Session, approved June 19, 1942, the following revision of Title 9, Chapter II, Part 201, Code of Federal Regulations (9 CFR and 1939 Supp. secs. 201.1-201.23) is promulgated.

(Title 9, Ch. II, Pt. 201, of the Code of Federal Regulations)

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DEFINITIONS

201.1 Meaning of words.—Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

201.2 Terms defined.—When used in these regulations, the terms as defined in the act, shall apply with equal force and effect. In addition, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) "Act" means the Packers and Stockyards Act, 1921 (42 Stat. 159, as amended; 7 U. S. C. 1940 ed. secs. 181–231), and Public Law 615, 77th Congress, Chapter 421, second session, approved June 19, 1942.

(b) "Administration" means the Food Distribution Administration of the Department of Agriculture.

(c) "Director" means the Director of the Food Distribution Administration of the Department of Agriculture or any officer or employee of that Administration to whom the Director has heretofore lawfully delegated, or to whom the Director may hereafter lawfully delegate, the authority to act in his stead.

(d) "Department" means the United States Department of Agriculture.

(e) "Deposited market" means a stockyard which no longer comes within the definition of a stockyard, notice of which has been given in accordance with section 302 (b) of the act.

(f) "Designation" means the designation of a city and the markets or places in or near such city, pursuant to the provisions of title V of the act.

(g) "Licensee" means any person who holds a valid unrevoked license from the Secretary of Agriculture issued under title V of the act.

(h) "Livestock Branch" means the Livestock Branch of the Food Distribution Administration, Department of Agriculture.

(i) "Person" means individuals, partnerships, corporations, and associations.

(j) "Posted market" means a stockyard which has been brought within the jurisdiction of the Secretary pursuant to the provisions of section 302 of the act.

(k) "Registrant" means any person who has registered pursuant to the provisions of title III of the act and the regulations promulgated thereunder.

(l) "Schedule" means a tariff of rates and charges filed by stockyard owners, market agencies, or licensees.

(m) "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has heretofore lawfully delegated, or to whom the Secretary may hereafter lawfully delegate, the authority to act in his stead.

ADMINISTRATION

201.3 Authority.—The Director shall perform such duties as the Secretary may require in enforcing the provisions of the act and these regulations.

APPLICABILITY

201.4 Legitimate bylaws, rules, or regulations of exchanges, associations, or other organizations remain applicable.—These regulations shall not prevent the legitimate application or enforcement of any valid bylaw, rule, or regulation, or requirement of any exchange, association, or other organization or any other valid law, rule, or regulation to which any packer, stockyard owner, market agency, dealer, or licensee shall be subject which is not inconsistent or in conflict with the act and these regulations.

POSTING STOCKYARDS

201.5 Investigation, notice, and posting of stockyards.—After it has been determined, as provided in section 302 (b) of the act, that a stockyard comes within the definition of that term as it is defined in section 302 (a), posting of a stockyard shall be accomplished by (a) giving notice of that fact to the stockyard owner by registered mail or in person, and (b) giving notice of that fact to the public by posting copies of such notice in at least three conspicuous places at such stockyard. A stockyard posted in accordance with the provisions of this regulation shall be within and remain subject to the provisions of title III of the act until the stockyard has been deposited.

201.6 Investigation, notice, and deposting of stockyards.—After it has been determined, as provided in section 302 (b) of the act, that a stockyard no longer comes within the definition of that term as it is defined in section 302 (a), deposting of a stockyard shall be accomplished by (a) giving notice of that fact to the stockyard owner by registered mail or in person, and (b) giving notice of that fact to the public by posting copies of such notice in at least three conspicuous places at such stockyard.

201.7 Change in name, address, management, control, or ownership to be reported by stockyard owner.—Whenever any change is made in the name or address or in the management or nature or in the substantial control or ownership of the business of a posted stockyard, the owner of such stockyard shall report such change in writing to the Director at Washington, D. C., within ten days after making such change.

DESIGNATION

201.8 Investigation.—Such investigation as may be deemed necessary for the purpose of ascertaining whether a city, and markets and places in or near such city, shall be designated under the act shall be made by the Administration.

201.9 Publication.—After it has been determined by the Secretary that a city and markets and places in or near such city should be designated under the provisions of title V, public announcement thereof shall be made by publication in the Federal Register and one or more trade journals or newspapers.

REGISTRATION

201.10 Persons desiring to register.—Any person desiring to register in compliance with the act shall furnish the information required by the Director on a form which will be furnished by the Director on request, and shall, concurrently with the filing of such information, file a bond to secure the performance of his financial obligations.

201.11 Officers, agents, or employees of registrants whose registrations have been suspended or revoked.—Any person who has been or is an officer, agent, or employee of a registrant whose registration has been suspended or revoked and who was responsible for or participated in the violation on which the order of suspension or revocation was based may not register within the period during which the order of suspension or revocation is in effect.

201.12 Registrants whose registrations have been suspended or revoked.—Any person whose registration has been suspended or revoked may not again register in his own name or in any other manner within the period during which the order of suspension or revocation is in effect.

201.13 Registrants to report changes in name, address, control, or ownership.—Whenever any change is made in the name or address or in the management or nature or in the substantial control or ownership of the business of a registrant, such registrant shall report such change in writing to the Director at Washington, D. C., within 10 days after making such change.

LICENSING

201.14 Application for, issuance of license; financial and other requirements.—Applications for license pursuant to section 502 (b) of the act may be made by any person subject to the licensing provisions of the amendment by properly filling out and delivering to the Director at Washington, D. C., by mail or otherwise, a properly executed form of application. Copies of such form will be furnished by the Director on request. A license will be issued to any applicant furnishing the required information unless the Secretary finds after opportunity for a hearing that such applicant is unfit to engage in the activity for which he has made application by reason of his having at any time within two years prior to his application engaged in any practice of the character prohibited by the act or because he is financially unable to fulfill the obligations he would incur as a licensee. Financial ability may be established upon a showing by the applicant that he has current assets equal to his current liabilities, and, in addition thereto, sufficient free working capital to equal twenty-five (25) percent of his average weekly purchases and/or sales of live poultry according to his books and records, or according to such volume of business as may be reasonably anticipated in case

of a new business. If the applicant fails to make such a showing, consideration will be given to such showing of other assets and other liabilities and other factors relating to his ability to fulfill his financial obligations which would be incurred as a licensee and to his reputation and integrity. If the applicant fails to make a satisfactory showing of financial ability, a license will be granted upon his executing and maintaining a satisfactory surety bond or equivalent thereof to a suitable trustee, in accordance with the provisions of secs. 201.33–201.38, inclusive.

201.15 Licensee to retain license must maintain satisfactory financial condition or furnish surety bond or equivalent.—The granting of a license hereunder is conditioned on the licensee maintaining at all times a financial condition at least equivalent to that required for the issuance of a license or in lieu thereof maintaining a satisfactory surety bond or its equivalent. The failure of a licensee to maintain such a financial condition or surety bond will render his license subject to revocation.

201.16 Licensees to report changes in name, address, control, or ownership.—Whenever any change is made in the name or address or in the management or nature or in the substantial control or ownership of the business of a licensee, such licensee shall report such change in writing to the Director at Washington, D. C., within ten days after making such change.

SCHEDULES

201.17 Requirements as to filing by stockyard owners and market agencies.—Each stockyard owner and market agency shall plainly state in the schedule of rates and charges filed by the stockyard owner or market agency, the date when effective, a description of the services, the basis for classifying livestock by species or by weight, the stockyards at which it applies, the name and business address of the stockyard owner or market agency, the kind of livestock, the nature of the service, and the conditions under which the service will be rendered and the rates or charges will be applied.

201.18 Requirements as to filing by licensees.—Each licensee furnishing or conducting services or facilities for which a charge is made shall plainly state in the schedule of rates and charges filed by such licensee, the date when effective, the city, place, or market at which it applies, the name and the business address of the licensee, the nature of the service or facilities furnished, the terms or conditions under which the service will be rendered, and the rates and charges will be applied.

201.19 Size, style, and number of copies.—Schedules of rates and charges and amendments thereto of stockyard owners, market agencies, and licensees shall be printed or typed on paper which is approximately 8 by 11 inches in size, the lines of print or type being horizontal to the 8-inch dimension. Two copies of each such schedule or amendment shall be filed with the Packers and Stockyards Division, Livestock Branch, Food Distribution Administration at Washington, D. C., at least one of which shall be signed by the market agency, stockyard owner, or licensee filing the same.

201.20 Designation, form, and substance of schedules and amendments.—The schedules of each market agency, stockyard owner, and licensee shall be designated by successive numbers as filed. Each such schedule shall be divided into sections to cover the various classes of services furnished by the market agency, stockyard owner, or licensee. Each amendment of such schedule shall be numbered, and shall show the number of the schedule of which it is an amendment. Each such amendment shall in its body make adequate reference to the section or sections of the schedule which is amended, and shall set forth such section or sections in full in the amended or supplemental form. Each amendment shall indicate the numbers of such amendments to the original schedule as are in effect. After a market agency, stockyard owner, or licensee has filed thirty (30) amendments to its schedule, any further change in the rates or charges shall be embodied in a new schedule which shall contain all rates and charges then in effect: *Provided, however,* That not more than ten (10) amendments relating to charges other than for feed may be filed without filing and publishing a new schedule.

201.21 Rules or regulations affecting rates and charges.—Each stockyard owner, market agency, and licensee shall set out in its schedule of rates and charges every rule or regulation which in any way changes or affects any rate or charge or the value of the services furnished thereunder, and shall designate the rate or charge affected by such rule or regulation.

201.22 Time and place schedules, rules or regulations, and amendments to be filed and posted by stockyard owners, market agencies, and licensees.—All schedules and rules or regulations and amendments or supplements thereto required to be filed under this act by market agencies and stockyard owners shall be kept at their places of business and kept open for public inspection at their places of business. Licensees shall post schedules of rates, charges, and rentals in a conspicuous location in their places of business where they may be readily observed by any interested person. Unless the requirement as to filing and notice is specifically waived, as provided for in section 306 (c) of the act all amendments to schedules or rules or regulations changing a rate or charge shall be filed with the Packers and Stockyards Division, Livestock Branch, Food Distribution Administration at Washington, D. C., not less than ten (10) days before the effective date thereof.

201.23 Joint schedules.—If the same schedule is to be observed by more than one market agency or licensee one schedule will suffice for all market agencies or licensees at any one city, place, or market observing it whose names and business addresses are shown on it, together with the name of the organization, if any, by which adopted: *Provided*, At least one copy of such schedule or amendment thereto is signed in ink by each of the market agencies or licensees observing the same, and filed with the Packers and Stockyards Division, Livestock Branch, Food Distribution Administration at Washington, D. C.

201.24 Prescribed rates, charges, practices, and regulations.—After the effective date of any general order issued by the Secretary prescribing rates, charges, practices, or regulations governing the rendition of stockyard services, or the selling or buying or the selling and buying of livestock on a commission basis at a stockyard, or governing the rendition of any services or the use of any facilities in a city, place, or market, designated by the Secretary under title V of the act, every market agency operating on such stockyard and every licensee operating in such city, place, or market shall conform to such order.

201.25 Proposed increases in existing charges must be supported by specific data.—Each stockyard operator, market agency, and licensee proposing an increase or increases in existing charges either by supplement to a filed tariff or by submission of an original tariff shall forward with the supplement or tariff proposing the increase information as to the reasons for the proposed increase and shall furnish specific and detailed data forming the basis on which the proposed increase is based, together with such additional information as the Director may require.

201.26 Numbering and form.—The schedules of each market agency, stockyard owner, and licensee shall be designated by successive numbers as filed and shall be substantially in the form set out below:

Tariff or Schedule of Charges No. ----- or Amendment No. ----- to Tariff or
Schedule of Charges No. ----- of -----
(Operator's Name)

(Operator's Business Address)

(Name Posted Yard or Designated Market Where Charges Apply)

(Location Posted Yard or Designated Market Where Charges Apply)

Issued ----- Effective -----
(Not less than ten days after receipt in Washington Office)

(Insert here, dividing into sections, the various classes of service performed by the stockyard owner or operator, market agency or licensee, the kind of livestock or poultry concerning which services are performed, the nature of the services, and the terms or conditions under which the services are rendered.)

(Operator's Name)

(Signed by) -----
(Owner, Partner, or Official Designation)

MARKET AGENCY AND DEALER BONDS

201.27 Market agencies and dealers to file on or before commencing operations.—Every market agency and dealer shall, on or before the date of commencement of operations, execute and thereafter maintain, or cause to be executed and thereafter maintained, a reasonable bond or its equivalent satisfactory to the Director, to a suitable trustee to secure the performance of obligations incurred as such market agency or dealer at posted stockyards, and shall immediately file with the Director at Washington, D. C., a fully executed duplicate of such bond. The bond of every market agency acting in the capacity of broker or clearing agency, and thereby being responsible for the financial

obligations of other registrants, shall show the name of the person or persons for whom the market agency holds itself out to be responsible and whose obligations are covered by the bond.

201.28 Underwriter and amount of market agency and dealer bonds.—Surety companies underwriting bonds shall be approved by the Treasury Department of the United States for bonds executed to the United States. The amount of such bond shall be not less than the nearest multiple of one thousand dollars (\$1,000) above the average amount of sales or purchases, or both, of livestock by such market agency or dealer during two business days, based on the total number of the business days, and the total amount of such sales or purchases, or both, in the preceding 12 months, or in such part thereof in which such market agency or dealer did business, if any. For the purpose of this computation, 260 shall be deemed the number of business days in any year: *Provided, however,* That where the principal part of the livestock handled by a market agency or dealer is sold or purchased at public auction the amount of the bond should be not less than the nearest multiple of one thousand dollars (\$1,000) above an amount determined by dividing the total value of the livestock sold or purchased at auction during the preceding 12 months or such part thereof as the market agency or dealer was engaged in business by the actual number of auction sales at which livestock was sold or purchased, but in no instance shall the divisor be greater than 130. In any case, however, the amount of bond shall be not less than two thousand dollars (\$2,000) and when the sales or purchases, or both, calculated as hereinbefore specified, exceed fifty thousand dollars (\$50,000) the amount of the bond need not exceed \$50,000 plus 10 percent of the excess. Whenever the Director finds any bond required hereinunder to be inadequate, such bond, upon notice, shall be adjusted to meet the requirements of this section. If a person applying for registration as a market agency or dealer has been engaged in the business of handling livestock in such capacities prior to the date of the application, the value of the livestock so handled shall be used in computing the amount of bond in accordance with the provisions of this section.

201.29 Conditions in market agency and dealer bonds.—Bonds shall contain conditions applicable to the activity or activities in which the market agency or dealer, or both, named as principal in the bond is engaged which conditions shall be as follows or in terms to provide equivalent protection.

(a) Where the principal sells on commission: If the said principal shall safely keep and faithfully and promptly account for and pay to the owners or their duly authorized agents the proceeds of sales of all livestock received for sale on a commission basis by the said principal at a public stockyard as defined in the Packers and Stockyards Act.

(b) Where the principal buys on commission: If the said principal shall faithfully and promptly execute all orders for purchases of livestock undertaken by said principal on a commission basis, on behalf of buyers, at a public stockyard as defined in the Packers and Stockyards Act, and shall safely keep and properly disburse all funds coming into the hands of said principal for the purpose of making such livestock purchases, paying for all livestock so purchased.

(c) Where the principal operates as a dealer (trader): If the said principal shall pay, when due, to the person or persons entitled thereto the purchase price for all livestock purchased by said principal at a public stockyard as defined in the Packers and Stockyards Act.

(d) Where the principal "clears" and thus is responsible for the obligations of other registrants: If the said principal, acting in the capacity of broker or clearing agency, and thereby being responsible for the financial obligations of other registrants at a public stockyard as defined in the Packers and Stockyards Act, viz: (insert here the names of such registrants)-----

----- shall (1) pay, when due, to the person or persons entitled thereto the purchase price for all livestock purchased by such other registrants; (2) safely keep and properly disburse all funds coming into the hands of said principal for the purpose of making such purchases; and (3) safely keep and faithfully and promptly account for and pay to the owners or their duly authorized agents the proceeds of sales of all livestock received for sale on a commission basis by such other registrants for whom said principal acts as broker or clearing agency.

201.30 Trustee in market agency and dealer bonds.—Bonds shall be in favor of a financially responsible, disinterested trustee, satisfactory to the Director. Secretaries or other officers of livestock exchanges or of similar trade asso-

ciations, and banks and trust companies, or their officers, are deemed suitable trustees.

201.31 Persons damaged may maintain suit to recover on market agency and dealer bonds.—The bond shall contain a provision that any person damaged by failure of the principal to comply with the condition clauses of the bond may maintain suit to recover on the bond even though such person is not a party named in the bond.

201.32 Termination of market agency and dealer bonds.—Every bond shall contain a provision requiring that at least ten days' notice in writing be given to the Director at Washington, D. C., by the party terminating such bond in order to effect its termination.

LICENSEES' BONDS

201.33 Standards for bonds or equivalents submitted by applicants for licenses or licensees under secs. 201.14 and 201.15.—Surety bonds submitted by applicants for licenses and by licensees as provided for by secs. 201.14 and 201.15 shall meet the following standards:

(a) Such bond or equivalent shall be conditioned to secure the performance of the obligations of the licensee incurred as such and may contain such other terms and conditions not inconsistent with the requirements of this regulation as may be agreed on between the parties thereto, including:

(1) Where the applicant or licensee sells live poultry on commission or agency basis the bond or equivalent shall contain the following clause:

If the said principal shall safely keep and faithfully and promptly account for and pay to the owners or their duly authorized agents the proceeds of sales of all live poultry received for sale on a commission basis by the said principal in his capacity as a licensee.

(2) Where the applicant or licensee operates as a dealer, the bond shall contain the following condition clause:

If the said principal shall pay, when due, to the person or persons entitled thereto the purchase price of all live poultry purchased by said principal in his capacity as a licensee.

(b) The principal sum of such bond shall at least be equal to the amount by which the applicant or licensee has failed to meet the requirements of these regulations.

201.34 Trustee on licensee bonds.—Bonds shall be in favor of a financially responsible, disinterested trustee, satisfactory to the Director. Secretaries of trade associations and banks and trust companies, or their officers, are deemed suitable trustees.

201.35 Persons damaged may maintain suit to recover on licensee bonds.—The bond shall contain a provision that any person damaged by failure of the principal to comply with the condition clauses of the bond may maintain suit to recover on the bond even though such person is not a party named in the bond.

201.36 Termination of licensee bonds.—Every bond shall contain a provision requiring that at least ten days' notice in writing be given to the Director at Washington, D. C., by the party terminating such bond in order to effect its termination.

GENERAL BONDING PROVISIONS

201.37 Underwriter; substantial equivalents acceptable in lieu of bonds.—The surety on bonds maintained under sections 201.27–201.38, inclusive, shall be a surety company approved by the Treasury Department of the United States for bonds executed to the United States. Any other form of indemnity which is found by the Director to afford protection substantially equivalent to that of a surety bond may be accepted in lieu of a bond.

201.38 Duplicates of bonds or equivalents to be filed with the Director, Washington, D. C.—Fully executed duplicates of bonds or equivalents shall be filed with the Director at Washington, D. C.

PROCEEDS OF SALE

201.39 Payment of to be to owner or authorized agent by market agencies or licensees; exceptions.—No market agency or licensee shall pay the net proceeds or any part thereof, arising from the sale of livestock or live poultry consigned to it for sale, to any person other than the owner of such livestock or live poultry, or his duly authorized agent, except upon an order from the Secretary of Agri-

culture or a court of competent jurisdiction, unless such person holds (1) a valid, unsatisfied mortgage or lien upon the particular livestock or live poultry, or (2) a written order executed by the owner at the time of or immediately following the consignment of such livestock or live poultry. The net proceeds arising from the sale of livestock, the ownership of which has been questioned by a market agency duly authorized to inspect brands, marks, and other identifying characteristics of livestock, may be paid in accordance with the directions of such duly authorized market agency, provided, the laws of the State from which such livestock originated or was shipped to market make provision for payment of the proceeds in the manner directed by the authorized agency.

201.40 Market agencies or licensees not to use shippers' proceeds or funds received for purchases on commission for own purposes through "bank float" or otherwise.—No market agency or licensee engaged in selling or buying livestock or live poultry on a commission or agency basis shall use shippers' proceeds or funds received for the purchase of livestock or live poultry on order for purposes of its own either through recourse to the so-called "float" in the bank account in which the proceeds or funds are deposited or in any other manner.

201.41 Market agencies or licensees to make faithful and prompt accounting to owners, consignors, or other interested persons.—No market agency or licensee shall make such use or disposition of funds in its possession or control as will endanger or impair the faithful and prompt accounting for and payment of such portion thereof as may be due the owner or consignor of livestock or of live poultry or other person having an interest therein.

201.42 Shippers' proceeds accounts.—If the Secretary finds that any market agency or licensee has used for purposes of its own any proceeds derived from the sale of livestock or live poultry handled on a commission or agency basis, or any funds received for the purchase of livestock or live poultry on a commission or agency basis, or any other funds which have come into its possession in its capacity of an agent, such market agency or licensee shall thereafter deposit the gross proceeds received from the sale of livestock or live poultry handled on a commission or agency basis in a separate bank account designated as "Shippers' Proceeds Account," or by a similar identifying designation. Such account shall be drawn on only for payment of the net proceeds to the person or persons entitled thereto and to obtain therefrom the sums due the market agency or licensee as compensation for its services as set out in its tariffs and for such sums as may be required to pay all legal charges against the consignments of livestock or live poultry as the market agency or licensee may, in its capacity as agent, be required to pay for and on behalf of the owner or consignor. For the proper maintenance of such accounts and in order to expedite examination thereof by duly authorized representatives of the Administration, the market agency or licensee in each case shall keep the accounts in a manner which will clearly reflect the handling of the funds in compliance with the requirements of this section.

ACCOUNTS AND RECORDS

201.43 Market agencies and licensees to make prompt accounting and transmittal of net proceeds.—Each market agency shall, before the close of the next business day following the sale of any livestock consigned to it for sale, transmit or deliver to the owner of the livestock, or his duly authorized agent the net proceeds received from the sale and a true written account of such sale showing the number, weight, and price of each kind of animal sold, the name of the purchaser, the date of sale, the commission, yardage and other lawful charges and such other facts as may be necessary to complete the account. Each licensee acting as a broker, factor, or commission merchant shall, before the close of the next business day following the sale of live poultry consigned to it for sale, transmit or deliver to the owner of the live poultry or his duly authorized agent the net proceeds received from such sale and a true written account thereof showing the number of pounds and the price of each kind of poultry sold, the date of sale, the name of the purchaser, the commission, coops, loading, unloading and other lawful charges and such other facts as may be necessary to complete the account and show the true nature of the transaction.

201.44 Market agencies and licensees to render prompt accounting for purchases on order.—Each market agency and licensee shall, promptly, following the purchase of livestock or live poultry on a commission or agency basis, transmit or deliver to the person for whose account such purchase was made, or his duly authorized agent, a true written account of the purchase showing the number, weight, and price of each kind of animal purchased, or the weight and price of

each kind of poultry purchased, the name or names of the person from whom purchased, the date of purchase, the commission and other lawful charges and such other facts as may be necessary to complete the account and show fully the true nature of the transaction.

201.45 Market agencies or licensees to make records available for inspection by owners or consignors or purchasers.—Each market agency and licensee engaged in the business of selling or buying livestock or live poultry on a commission or agency basis shall, on request from an owner, consignor, or purchaser, make available copies of bills covering charges paid by such market agency or licensee for and on behalf of the owner or consignor which were deducted from the gross proceeds of the sale of livestock or live poultry or added to the purchase price thereof when accounting for the sale or purchase.

201.46 Stockyard owners, registrants, and licensees to keep daily record.—In addition to other necessary records an accurate record of the number of head of each class of livestock received, shipped, and disposed of locally each day shall be kept by each stockyard owner. Each registrant buying or selling or buying and selling livestock on a commission basis or otherwise, in addition to other necessary records, shall keep an accurate record of the number and weight of livestock bought or sold or bought and sold each business day, the prices paid or received therefor, and the charges made for services. Each licensee buying or selling or buying and selling live poultry on an agency basis or otherwise, in addition to other necessary records, shall keep an accurate record of the number of pounds of live poultry bought or sold or bought and sold each business day, the price paid or received therefor, and the charges made for services and facilities. Each licensee selling or buying live poultry on an agency basis shall keep an accurate record of the number of coops handled in connection with each transaction.

201.47 Market agencies or licensees to disclose pecuniary interest in purchasers if any.—No market agency or licensee acting as broker, factor, or commission merchant shall knowingly sell or dispose of livestock or live poultry consigned to it to any person in whose business such market agency or licensee or any stockholder, owner, officer, or employee thereof has a pecuniary interest except when such market agency or licensee clearly discloses such fact on the written account rendered to the owner or consignor of such livestock or live poultry.

201.48 Sellers of live poultry to issue sales tickets at designated markets.—With respect to each purchase or sale or purchase and sale of live poultry by licensees at designated markets a ticket shall be prepared by the seller. Each ticket shall show the name of the designated market, the date of the transaction, the names of the seller and buyer, the number of coops and kinds of poultry and the price per pound and such terms and conditions as the parties may agree upon. Each ticket shall be legibly signed by the seller and the buyer or authorized representatives thereof and when thus signed shall constitute the contract of purchase and sale. One copy of such ticket shall be retained by the seller. On request a copy shall be furnished to the buyer. A copy shall be transmitted with an accounting of the sale to the owner or consignor of the live poultry if the transaction is one on an agency basis. Settlement between seller and buyer shall be on the basis of the duly executed and signed tickets required by this section unless good cause is shown for settlement on some other basis.

201.49 Requirements regarding scale tickets evidencing weighing livestock and live poultry.—When livestock or live poultry is weighed for purposes of purchase or sale, or purchase and sale, a scale ticket shall be issued which shall show the name of the agency performing the weighing service, the date of the weighing, the number of the scale or other information identifying the scale upon which the weighing is performed, the name of the seller, the name of the buyer, the name of the consignor, or suitable designations by which the seller, buyer, or consignor may be identified. In the case of livestock in addition to the information referred to above the scale ticket shall show the number of head, kind, and actual weight of the livestock, the amount of dockage, if any, and the name or initials of the person who weighed the livestock. In the case of live poultry in addition to the information referred to above, the scale ticket shall show the number of coops weighed, the gross, tare, and net weights and the name or initials of the person operating the scale at the time the weighing is done. Only stockyard owners, market agencies, or licensees shall weigh livestock or live poultry and execute and issue scale tickets. Scale tickets issued under this section shall be in triplicate form, serially numbered, and if such tickets are used on a type-registering beam they shall conform to the specifi-

cations of the National Bureau of Standards. One copy shall be retained by the stockyard owner, market agency, or licensee issuing same, and one copy shall be furnished to the seller and one copy to the buyer. Duly authenticated copies shall be furnished on request to any owner or consignor of livestock or live poultry. In the case of any error of the weighmaster in preparing the scale ticket he shall prepare a corrected scale ticket showing the corrections made and state on the back thereof the reasons for such changes: *Provided, however*, That no change in weight shall be made except upon a re-weighing of the livestock or live poultry. In the event any change of the scale ticket is requested by either the seller or the buyer the weighmaster shall issue another ticket bearing appropriate corrections or a correction slip which shall show thereon the changes made and on the back thereof shall be shown the reasons for such changes: *Provided, however*, That no change in weight shall be made at the request of either the buyer or seller. Before such correction ticket or slip shall be issued the weighmaster shall require the person requesting the change to sign such ticket or slip. The correction ticket shall be attached to the original ticket and bear the same serial number. The correction ticket shall show on its face that it is a correction ticket.

201.50 Records; disposition.—No stockyard owner, registrant, or licensee shall destroy or dispose of any books, records, documents, or papers which contain, explain, or modify transactions in his business under the act, without the consent in writing of the Director.

201.51 Contracts; stockyard owners to furnish copies of.—Each stockyard owner shall furnish to the Packers and Stockyards Division, Livestock Branch, Food Distribution Administration at Washington, D. C., true copies of all contracts, or changes therein, between such stockyard owner and packing, rendering, serum, fertilizer, and other establishments relating to the business of the stockyard owner, except when it is shown that copies of such documents in the form in which they are effective are already in the possession of the United States Government at Washington and available to the Secretary.

201.52 Information as to sales on commission or agency basis not to be furnished to unauthorized parties.—No market agency or licensee, in connection with the sale of livestock or live poultry on a commission or agency basis, shall give to any person, not authorized by the Director, who does not have an interest in the consignment or a statement in writing from the owner thereof authorizing the market agency or licensee so to do, any copy of an account of sale or other paper or information which will reveal to such person any of the information shown on the account of sale relating to the price at which livestock or live poultry was sold and the amount of the net proceeds thereof remitted to the owner or consignor: *Provided, however*, That this shall not be construed to prevent a market agency or licensee from furnishing to a trucker, hauling livestock or live poultry for hire, information as to the weight of such livestock or live poultry in order that the trucker may have the necessary facts on which to base his hauling charges: *And provided further*, That this shall not prevent a market agency or licensee from giving to recognized market news reporting services such information as may be necessary to enable such reporting services to furnish the public with market news data.

TRADE PRACTICES

201.53 Livestock and live poultry market conditions and prices; operators not to circulate misleading reports.—A packer, stockyard owner, registrant, or licensee shall not knowingly make, issue, or circulate any false or misleading report, record, or representation concerning livestock or live poultry market conditions or the price or sale of any livestock or live poultry.

201.54 Gratuities to truckers.—No stockyard owner, market agency, or licensee engaged in the business of selling or buying or selling and buying livestock or live poultry on a commission basis or otherwise shall give any trucker delivering livestock or live poultry for owners or consignors any gratuities, money, meals, or things of value except advertising novelties having a total value not in excess of 25¢. This regulation shall not preclude loans by a market agency or licensee to a trucker or shipper of livestock or live poultry which are evidenced by an interest-bearing note, properly secured, and having a definite due date.

201.55 Purchases and sales to be made on actual weights.—When livestock or live poultry is bought or sold or bought and sold on a weight basis by persons subject to the provisions of the act, settlement therefor shall be on the basis of the weight shown on the scale ticket or correction ticket unless shrinkages

and other deductions in weight based on the condition of the livestock or live poultry at time of sale are provided for in appropriate rules filed with the Director.

201.56 Filling orders; price to be paid.—No market agency engaged in the business of selling and buying livestock, on a commission basis, shall use any livestock consigned to it for sale to fill orders, except at a price higher than the highest available bid on such livestock after it has been offered for sale on the open market in the customary manner.

201.57 Livestock at auction; buying from consignments; pecuniary interest.—Whenever livestock consigned for sale on a commission basis is offered for sale at auction and is bought by the market agency or by any person in whose business the market agency has a pecuniary interest, the facts regarding the transaction shall be publicly announced by the market agency at the conclusion of the transaction with respect to such livestock. This shall not preclude the bona fide owner or consignor of the livestock from exercising such rights as are conferred on him by the laws of the State, in which the auction market is located, relating to sales of livestock at auction.

201.58 Sales to be to highest bidder without intermingling and not conditioned on sales of other consignments.—Every market agency and licensee engaged in the business of selling livestock or live poultry on a commission or agency basis shall offer the livestock or live poultry consigned to it for sale on the open market and shall sell such livestock or poultry at the highest available bid. In all instances the market agency or licensee shall sell each consignment of livestock or live poultry on its merits and shall not intermingle, prior to sale and for purpose of sale, the livestock or live poultry belonging to one consignor with the livestock or live poultry belonging to another and different consignor unless the consent of the several consignors has been obtained in advance. A market agency or licensee shall not make the sale of one consignment of livestock or live poultry conditional on the sale of another and different consignment of livestock or live poultry without the consent of the owners. If livestock or live poultry belonging to different owners is graded and sold in lots settlement shall be on the basis of the weight shown on the scale ticket or correction ticket issued at the time the livestock or live poultry is weighed or graded.

201.59 Taking consignments into own account; accounting; resales.—If a market agency or licensee takes to its own account livestock or live poultry consigned to it for sale on a commission or agency basis, it shall do so only after it has offered such livestock or live poultry for sale on the open market in the customary manner, and then such livestock or live poultry shall be taken into the account of the market agency or licensee only at a price higher than the highest available bid. In such event the market agency or licensee, in accounting to the owner or consignor of the livestock or live poultry, shall show on the account of sale as the purchaser of the livestock or live poultry the full, true, and correct name of the market agency or licensee. In event a market agency or licensee takes to its account livestock or live poultry belonging to one owner and resells the livestock or live poultry belonging to that owner in one lot on the same day at a price higher than that remitted to the owner, such additional price shall be remitted to the owner in a separate accounting.

201.60 Consignments on commission; officer, agent, or employee of consignee not to deal in.—No market agency or licensee shall permit its officers, agents, or employees to deal in livestock or live poultry consigned to the market agency or licensee for sale on a commission or agency basis.

201.61 Consignments; sales to clearees.—A market agency or licensee who sells livestock or live poultry consigned to it for sale on a commission or agency basis to a dealer or licensee whose financial obligations are cleared by such market agency or licensee shall report that fact in accounting to the owner or consignor of the livestock or live poultry.

201.62 Filling orders out of consignments of livestock; accounting.—Whenever any market agency uses livestock, consigned to it for sale on a commission basis, to fill an order on a commission basis, such market agency in accounting to the consignor or owner of the livestock so used shall fully and correctly disclose the fact that the livestock was sold to a purchaser for whom the market agency was filling an order on a commission basis. The market agency in accounting to the purchaser of such livestock, for whom it is filling an order on a commission basis, shall fully and correctly disclose to such purchaser that the livestock was purchased out of a consignment received by the market agency for sale on a commission basis.

201.63 Consignments; when not to be solicited.—No market agency or licensee shall solicit consignments of livestock or live poultry at or on stockyard premises or in designated areas or after such livestock or live poultry has been billed or consigned to a market agency or licensee and is in course of transportation for delivery to the consignee.

201.64 Consignments; guarantees not to be given.—No market agency or licensee, in soliciting consignments of livestock or live poultry shall guarantee to the owners thereof that such livestock or live poultry will be sold at a specific price or prices if consigned to the market agency or licensee for sale on a commission basis.

SERVICES

201.65 Accurate weights.—Each stockyard owner, market agency, or licensee, who weighs livestock at stockyards or live poultry in designated markets shall maintain and operate the scales used for such weighing so as to insure accurate weights.

201.66 Scales; testing of.—Each stockyard owner, market agency, or licensee who weighs livestock or live poultry for purposes of purchase or sale or who furnishes scales for those purposes shall cause such scales to be tested properly by competent agencies at suitable intervals in accordance with instructions of the Director, copies of which will be furnished to each stockyard owner, market agency, or licensee.

201.67 Scale operators to be competent.—Each stockyard owner, market agency, or licensee shall employ only competent persons to operate scales for weighing livestock and live poultry for the purposes of purchase or sale. They shall require such employees to operate the scales in accordance with instructions of the Director, copies of which will be furnished to each stockyard owner, market agency, or licensee who employs persons to operate scales used for the purposes herein indicated.

201.68 Scales; reports of tests and inspections.—Each stockyard owner, market agency, or licensee, who weighs livestock and live poultry for purposes of purchase or sale, shall furnish reports of tests and inspections of scales used for these purposes, on forms which will be furnished by the Director on request. When executed one copy of such form shall be retained by the stockyard owner, market agency or licensee, and he shall cause one copy to be retained by the agency conducting the test and inspection of the scales, and the third copy shall be delivered to the local supervisor of the Packers and Stockyards Division, Livestock Branch, Food Distribution Administration, having charge of the work under the act in the particular district in which the scales being tested are located. In case the test and inspection of scales as herein required are conducted by an agency of a State or municipality or other governmental subdivision, the forms ordinarily used by such agency for reporting tests and inspections of scales shall be accepted in lieu of the forms furnished for this purpose by the Director: *Provided*, That the test and inspection forms used by the State or other governmental agency contain substantially the same information as that required by the official form.

201.69 Scales; repairs and adjustments after inspection.—No scale shall be used by any stockyard owner, market agency, or licensee unless it has been found upon test and inspection to be in a condition to give accurate weights. If any repairs, adjustments, or replacements are made upon a scale it shall not be placed in use until it has again been tested and inspected in accordance with these regulations.

201.70 Reweighing.—Stockyard owners, market agencies, or licensees or their employees shall reweigh livestock or live poultry on request of duly authorized employees of the Administration.

201.71 Weighing for purposes other than purchase or sale.—Every stockyard owner, market agency, or licensee who weighs livestock or live poultry for purposes other than purchase or sale shall show on the scale tickets or other records used in connection with such weights the fact that they are not weights for purposes of purchase or sale.

201.72 Facilities and services at posted stockyards, or designated cities, markets, or places; no discrimination.—A stockyard owner shall not discriminate unfairly with respect to the utilization of pens, alleys, buildings, or facilities for the yarding, weighing, or handling of livestock or of space for packing, rendering, and other establishments, or otherwise in the services and facilities of his stockyard. A licensee shall not discriminate unfairly with respect to the utilization of facilities for the handling of live poultry at designated cities, markets,

or places, or discriminate unfairly in the weighing or handling of live poultry or otherwise in the services rendered thereat.

201.73 Stockyard facilities or services to be furnished only to unsuspended, properly registered, and bonded parties.—No stockyard owner or operator shall, after notice, furnish services or facilities at his stockyard to any person who attempts to engage in the business of a market agency or dealer at his stockyard without being properly registered and bonded, as required by the act and these regulations, or whose registration is under suspension.

201.74 Suspended or revoked registrants or licensees.—No registrant or licensee shall, after notice, furnish services or facilities or sell livestock or live poultry to or buy livestock or live poultry from any person required by this act and these regulations to be registered and bonded or licensed who is not so registered and bonded or licensed or whose registration or license is suspended or revoked.

201.75 Livestock; yarding, feeding, watering, weighing, handling; care and promptness.—Each stockyard owner and registrant shall exercise reasonable care and promptness in respect to yarding, feeding, watering, weighing, or otherwise handling livestock to prevent waste of feed, shrinkage, injury, death, or other avoidable loss.

201.76 Live poultry; care and promptness in handling.—Each licensee shall exercise reasonable care and promptness in respect to unloading, placing in coops, feeding, watering, weighing, transporting, or otherwise handling live poultry to prevent waste of feed, shrinkage, injury, death, or other avoidable loss.

201.77 Feed and water furnished livestock and live poultry.—Each stockyard owner, market agency, or licensee, who furnishes feed or water to livestock at stockyards or live poultry in designated areas shall see that it is wholesome and fit for the purpose. They shall collect for feed so furnished according to actual or carefully estimated weight only and in accordance with their schedules of rates and charges filed under the act.

201.78 Livestock auctions; accommodations, attendance, and admissions.—Stockyard owners or market agencies shall furnish adequate accommodations for the public to see and place bids on livestock offered for sale at auction but only those persons whose presence is necessary to the proper handling, buying, and selling of the livestock shall be permitted in the auction ring while the auction is in progress.

201.79 Packer scales; maintenance and operation.—Packers owning or operating scales on which livestock is weighed for purposes of purchase in commerce for slaughter shall maintain and operate such scales so as to insure accurate weights.

INSPECTION OF BRANDS, MARKS, AND OTHER IDENTIFYING CHARACTERISTICS

201.80 Application for authorization by State agencies or duly authorized State livestock associations; requisites.—A department or agency of a State, or a duly organized livestock association of a State in which branding or marking of livestock, or both, as a means of establishing ownership prevails by custom or statute, which desires to secure an authorization to charge and collect at any stockyard subject to the provisions of this act a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State for the purpose of determining the ownership of such livestock shall file with the Director an application for such authorization in writing. The application shall set forth clearly facts showing the necessity for inspection and shall show that branding or marking, or both branding and marking, livestock as a means of establishing ownership prevails by custom or statute in the State. The application shall set forth additional information, including facts showing the experience, extent and efficiency of organization, possession of necessary records, and any other factor relating to the ability of the applicant to perform the proposed service, and in addition, in the case of a duly organized livestock association, the financial responsibility of the applicant and evidence of its organization. The application shall further state the name or names of the stockyards at which the applicant proposes to perform this service, and the fee which applicant proposes to charge for rendering the service.

201.81 Two or more applications from same State; procedure.—In case two or more applications for authorizations to collect a fee for the inspection of brands, marks, and other identifying characteristics of livestock, for the purpose

of determining the ownership of such livestock, are received from the same State, and the facts set forth in the applications show such action to be necessary in order to reach a proper determination, a hearing will be held in conformity with the applicable rules of practice governing proceedings under the act.

201.82 Registration and filing of schedules.—Upon the issuance of an authorization to an agency or an association, said agency or association shall register in accordance with the provisions of section 201.10 and shall file a schedule of its rates or charges for performing the service in the manner and form prescribed by sections 201.17 to 201.26, inclusive.

201.83 Records of authorized agencies or associations.—Authorized agencies or associations shall maintain adequate records showing in detail the income derived from the collection of authorized fees, the disbursement of same as expenses for conducting the services, the inspections performed, and the results thereof, including records showing a full description of brands, marks, and other identifying characteristics of livestock which have been inspected. They shall also maintain currently records of the brands, marks, and other identifying characteristics of livestock located in the State from which such agency or association will operate, and with reference to which the authorization has been granted.

201.84 Fees; deduction and accounting.—Persons registered as market agencies selling livestock on a commission basis, at stockyards where an agency or association has been authorized under the provisions of section 317 (a) of the act to collect a reasonable fee for the inspection of brands, marks, and other identifying characteristics of livestock shall deduct from the proceeds of the sale of such livestock on which such inspection has been performed, the fee as set forth in the tariffs filed by the agency or association and in effect at the time the services are rendered, and shall pay over to the authorized agency or association the amount of such fees. Said market agencies in accounting to the owner or consignor of the livestock on which such fees are collected shall clearly show the amounts deducted from the proceeds for the payment of such fees and the purpose for which the payments are being made. All other persons receiving at posted stockyards livestock which is subject to inspection by an agency or association which has been authorized under the provisions of section 317 (a) of the act to collect a reasonable fee for the inspection of brands, marks, and other identifying characteristics of livestock, shall pay, upon demand, to such agency or association the fees authorized by the act to be assessed and collected.

201.85 Inspections; reciprocal arrangements by authorized agencies or associations.—An authorized agency or association may make arrangements with an association or associations in the same or in another State where branding or marking livestock prevails by custom or statute, to perform inspection service at posted markets on such terms and conditions as may be approved by the Director: *Provided*, Such arrangements will tend to further the purposes of the act and shall not result in duplication of charges or services.

201.86 Maintenance of identity of consignments; inspection to be expedited.—All persons having custody of livestock subject to inspection shall make it available to the inspection agency authorized under the act in such manner as to preserve the identity of the consignment until inspection has been completed. Agencies authorized to conduct such inspection shall perform the work as soon after receipt of the livestock as practicable and as rapidly as is reasonably possible in order to prevent delay in marketing, shrinkage in weight, or other avoidable losses.

201.87 Existing contracts between authorized agencies; recognition and continuation.—The provisions of existing contracts between agencies authorized to collect fees and market agencies engaged in selling livestock on a commission basis, with reference to disposition of proceeds arising from the sale of livestock as to which ownership has been questioned, shall not be affected by these regulations to the extent that such contracts contain no provisions which are in conflict with the law or these regulations. Copies of all such contracts shall be filed promptly with the Director at Washington, D. C.

GENERAL

201.88 Information as to business; furnishing of by packers, stockyard owners, registrants, and licensees.—Each packer, stockyard owner, registrant, and licensee shall give to the Secretary or his duly authorized agent, in writing or otherwise, and under oath or affirmation if requested by such officer, any information concerning the business of the packer, stockyard owner, registrant, or licensee which may be required in order to carry out the provisions of the act and the

rules and regulations thereunder, within such reasonable time as may be specified in the request for such information.

201.89 Places of business, property, and records; inspection of.—Each stockyard owner, registrant, and licensee shall, during ordinary business hours, permit any authorized representatives of the Secretary to enter the place of business and inspect any or all property in the possession or control and all records pertaining to the business of the stockyard owner, registrant, or licensee as such, and to make copies thereof, in order to carry out the provisions of the act and the rules and regulations thereunder. Any necessary facilities for such inspection shall be extended to such representative by the stockyard owner, registrant, or licensee, his agents, and employees.

201.90 Packers, stockyard owners, registrants, or licensees; information concerning business not to be divulged.—No agent or employee of the United States shall, without the consent of the packer, stockyard owner, registrant, or licensee concerned, divulge or make known in any manner, except to such other agent or employee of the United States as may be required to have such knowledge in the regular course of his official duties or except insofar as he may be directed by the Secretary or by a court of competent jurisdiction, any facts or information regarding the business of any packer, stockyard owner, registrant, or licensee which may come to the knowledge of such agent or employee through any examination or inspection of the business or accounts of the packer, stockyard owner, registrant, or licensee, or through any information given by the packer, stockyard owner, registrant, or licensee pursuant to the rules and regulations in this part.

201.91 Annual report.—Every packer, stockyard owner, market agency, dealer, and licensee, shall, upon request of the Director, file annually a report on prescribed forms and within such reasonable period as he may direct. The Director on good cause shown or on his own motion may waive the filing of such reports in particular cases.

The foregoing regulations shall become effective upon issuance.

Done at Washington, D. C., this 8th day of January 1943. Witness my hand and the seal of the Department of Agriculture.

PAUL H. APPLEBY,
Acting Secretary of Agriculture.

[F. R. Doc. 43-507 ; Filed, January 9, 1943 ; 1 : 44 p. m.]



PACKERS AND STOCKYARDS ACT, 1921

Approved August 15, 1921 (42 Stat. 159, as amended; 7 U. S. C. 1940 ed. 181-231; and Public Law 615, 77th Cong., Ch. 421, 2d sess., approved June 19, 1942)

AN ACT TO REGULATE INTERSTATE AND FOREIGN COMMERCE IN LIVESTOCK, LIVESTOCK PRODUCTS, DAIRY PRODUCTS, POULTRY, POULTRY PRODUCTS, AND EGGS, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

TITLE I—DEFINITIONS

This act may be cited as the "Packers and Stockyards Act, 1921."

SEC. 2. (a) When used in this Act—

(1) The term "person" includes individuals, partnerships, corporations, and associations;

(2) The term "Secretary" means the Secretary of Agriculture;

(3) The term "meat food products" means all products and byproducts of the slaughtering and meat-packing industry—if edible;

(4) The term "livestock" means cattle, sheep, swine, horses, mules, or goats—whether live or dead;

(5) The term "livestock products" means all products and byproducts (other than meats and meat food products) of the slaughtering and meat-packing industry derived in whole or in part from livestock; and

(6) The term "commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia.

(b) For the purpose of this Act (but not in anywise limiting the foregoing definition) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the livestock and meat-packing industries, whereby livestock, meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of livestock within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this Act. For the purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nation.

TITLE II—PACKERS

SEC. 201. When used in this Act—

The term "packer" means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of manufacturing or preparing livestock products for sale or shipment in commerce, or (d) of marketing meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs in commerce; but no person engaged in such business of manufacturing or preparing livestock products or in such marketing business shall be considered a packer unless—

(1) Such person is also engaged in any business referred to in clause (a) or (b) above, or unless

(2) Such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, by himself or through his agents, servants, or

employees, any interest in any business referred to in clause (a) or (b) above, or unless

(3) Any interest in such business of manufacturing or preparing livestock products, or in such marketing business is owned or controlled, directly or indirectly, through stock ownership or control or otherwise, by himself or through his agents, servants, or employees, by any person engaged in any business referred to in clause (a) or (b) above; or unless

(4) Any person or persons jointly or severally, directly or indirectly, through stock ownership or control or otherwise, by themselves or through their agents, servants, or employees, own or control in the aggregate 20 per centum or more of the voting power or control in such business of manufacturing or preparing livestock products, or in such marketing business and also 20 per centum or more of such power or control in any business referred to in clause (a) or (b) above.

SEC. 202. It shall be unlawful for any packer to:

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in commerce; or

(b) Make or give, in commerce, any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject, in commerce, any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(c) Sell or otherwise transfer to or for any other packer, or buy or otherwise receive from or for any other packer, any article for the purpose or with the effect of apportioning the supply in commerce between any such packers, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly in commerce; or

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in any article in commerce, or of restraining commerce; or

(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in any article in commerce, or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other persons (1) to apportion territory for carrying on business in commerce, or (2) to apportion purchases or sales of any article in commerce, or (3) to manipulate or control prices in commerce; or

(g) Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivision (a), (b), (c), (d), or (e).

SEC. 203. (a) Whenever the Secretary has reason to believe that any packer has violated or is violating any provisions of this title, he shall cause a complaint in writing to be served upon the packer, stating his charges in that respect, and requiring the packer to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the packer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may, on application, be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the packer, be adjourned for a period not exceeding fifteen days.

(b) If, after such hearing, the Secretary finds that the packer has violated or is violating any provisions of this title covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the packer an order requiring such packer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

(c) Until a transcript of the record in such hearing has been filed in a circuit court of appeals of the United States, as provided in section 204, the Secretary at any time, upon such notice and in such manner as he deems proper, but only

after reasonable opportunity to the packer to be heard, may amend or set aside the report or order, in whole or in part.

(d) Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 5 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

SEC. 204. (a) An order made under section 203 shall be final and conclusive unless within thirty days after the service the packer appeals to the circuit court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such packer will pay the costs of the proceedings if the court so directs.

(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, and the report and order. If before such transcript is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) At any time after such transcript is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) The evidence so taken or admitted, duly certified and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the circuit court of appeals shall be made a preferred cause and shall be expedited in every way.

(e) The court may affirm, modify, or set aside the order of the Secretary.

(f) If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

(g) If the circuit court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the packer, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(h) The circuit court of appeals shall have exclusive jurisdiction to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 240 of the Judicial Code, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the circuit court of appeals, insofar as such decree operates as an injunction, unless so ordered by the Supreme Court.

(i) For the purposes of this title the term "circuit court of appeals," in case the principal place of business of the packer is in the District of Columbia, means the Court of Appeals of the District of Columbia.

SEC. 205. Any packer, or any officer, director, agent, or employee of a packer, who fails to obey any order of the Secretary issued under the provisions of section 203, or such order as modified—

(1) After the expiration of the time allowed for filing a petition in the circuit court of appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the circuit court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts as provided in section 204: shall on conviction be fined not less than \$500 nor more than \$10,000, or imprisoned for not less than six months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

TITLE III—STOCKYARDS

SEC. 301. When used in this Act—

(a) The term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard;

(b) The term "stockyard services" means services or facilities furnished at a stockyard in connection with the receiving, buying, or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce, of livestock;

(c) The term "market agency" means any person engaged in the business of (1) buying or selling in commerce livestock at a stockyard on a commission basis or (2) furnishing stockyard services; and

(d) The term "dealer" means any person, not a market agency, engaged in the business of buying or selling in commerce livestock at a stockyard, either on his own account or as the employee or agent of the vendor or purchaser.

SEC. 302. (a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition.

SEC. 303. After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of section 302, by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless he has registered with the Secretary, under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged, and the kinds of stockyard services, if any, which he furnishes at such stockyard. Whoever violates the provisions of this section shall be liable to a penalty of not more than \$500 for each such offense and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

SEC. 304.¹ It shall be the duty of every stockyard owner and market agency to furnish upon reasonable request, without discrimination, reasonable stockyard services at such stockyard: *Provided*, That in any State where the weighing of livestock at a stockyard is conducted by a duly authorized department or agency of the State, the Secretary, upon application of such department or agency, may register it as a market agency for the weighing of livestock received in such stockyard, and upon such registration such department or agency and the members thereof shall be amenable to all the requirements of this act, and upon failure of such department or agency or the members thereof to comply with the orders of the Secretary under this act he is authorized to revoke the registration of such department or agency and to enforce such revocation as provided in section 315 of this act.

SEC. 305. All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful.

SEC. 306. (a) Within sixty days after the Secretary has given public notice that a stockyard is within the definition of section 302, by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard after the expiration of such sixty days such schedules must be filed before any stockyard services are furnished.

¹ Amended by an act of Congress approved May 5, 1926.

(b) Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may determine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

(c) No changes shall be made in the rates or charges so filed and published, except after ten days' notice to the Secretary and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect; but the Secretary may, for good cause shown, allow changes on less than ten days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

(d) The Secretary may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Secretary shall be void and its use shall be unlawful.

(e) Whenever there is filed with the Secretary any schedule, stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the Secretary may either upon complaint or upon his own initiative without complaint, at once, and, if he so orders, without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon the Secretary, upon filing with such schedule and delivering to the person filing it a statement in writing of his reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than thirty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the Secretary may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing can not be concluded within the period of suspension, the Secretary may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of such period.

(f) After the expiration of the sixty days referred to in subdivision (a) no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyard services furnished at the stockyard have been filed and published in accordance with this section and the orders of the Secretary made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from bona fide returning to its members, on a patronage basis, its excess earnings on their livestock, subject to such regulations as the Secretary may prescribe); nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

(g) Whoever fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall be liable to a penalty of not more than \$500 for each such offense, and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than \$1,000, or imprisoned not more than one year, or both.

Sec. 307. It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

Sec. 308. (a) If any stockyard owner, market agency, or dealer violates any of the provisions of sections 304, 305, 306, or 307, or of any order of the Secretary made under this title, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 309, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies.

SEC. 309. (a) Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the "defendant") in violation of the provisions of sections 304, 305, 306, or 307, or of an order of the Secretary made under this title, may, at any time within ninety days after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) The Secretary, at the request of the livestock commissioner, board of agriculture, or other agency of a State or Territory having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subdivision (a).

(c) The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of this title, or concerning which any question may arise under any of the provisions of this title, or relating to the enforcement of any of the provisions of this title. The Secretary shall have the same power and authority to proceed with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) If after hearing on a complaint the Secretary determines that the complainant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

(f) If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the defendant, or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the Secretary in the premises. Such suit in the district court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the suit.

SEC. 310.² Whenever after full hearing upon a complaint made as provided in section 309, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be unjust, unreasonable, or discriminatory, the Secretary—

(a) May determine and prescribe what will be the just and reasonable rate or charge, or rates or charges, to be thereafter in such case observed as both the maximum and minimum to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed; and

² Amended by an act of Congress, approved August 10, 1939.

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services more or less than the rate or charge so prescribed; and (3) shall conform to and observe the regulation or practice so prescribed.

SEC. 311. Whenever in any investigation under the provisions of this title, or in any investigation instituted by petition of the stockyard owner or market agency concerned, which petition is hereby authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner or market agency, for or in connection with the buying or selling on a commission basis or otherwise, receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of livestock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in livestock on the one hand and interstate or foreign commerce in livestock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in livestock, which is hereby forbidden, and declared to be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners or market agencies parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

SEC. 312. (a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing or handling, in commerce at a stockyard, of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subdivision (a), the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist.

SEC. 313. Except as otherwise provided in this Act, all orders of the Secretary under this title, other than orders for the payment of money, shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside by the Secretary or is suspended or set aside by a court of competent jurisdiction.

SEC. 314. (a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 310, 311, or 312 shall forfeit to the United States the sum of \$500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

(b) It shall be the duty of the various district attorneys, under the direction of the Attorney General, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

SEC. 315. If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary other than for the payment of money while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the district court for the district in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives from further disobedience of such order or to enjoin upon him or them obedience to the same.

SEC. 316. For the purposes of this title, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the

Secretary in enforcing the provisions of this title, and to any person subject to the provisions of this title.

SEC. 317.³ (a) The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this Act, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and non-discriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

(b) The provisions of this title relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

(c) Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

(d) The Secretary may, if he deems it to be in the public interest, suspend, and after hearing revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Every packer, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than \$5,000, or imprisoned not more than three years, or both.

SEC. 402. For the efficient execution of the provisions of this Act, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this Act and to any person subject to the provisions of this Act, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States.

SEC. 403. When construing and enforcing the provisions of this Act, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person.

³ Amended by an act of Congress, approved June 19, 1942.

SEC. 404. The Secretary may report any violation of this Act to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

SEC. 405. Nothing contained in this Act, except as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, the Interstate Commerce Act as amended, the Act entitled "An Act to promote export trade, and for other purposes," approved April 10, 1918, or sections 73 to 77, inclusive, of the Act of August 27, 1894, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," as amended by the Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' " approved February 12, 1913, or

(b) To alter, modify, or repeal such Acts or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending at the time this Act becomes effective.

SEC. 406. (a) Nothing in this Act shall affect the power or jurisdiction of the Interstate Commerce Commission, nor confer upon the Secretary concurrent power or jurisdiction over any matter within the power or jurisdiction of such Commission.

(b) On and after the enactment of this Act, and so long as it remains in effect, the Federal Trade Commission shall have no power or jurisdiction so far as relating to any matter which by this Act is made subject to the jurisdiction of the Secretary, except in cases in which, before the enactment of this Act, complaint has been served under section 5 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, or under section 11 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, and except when the Secretary of Agriculture in the exercise of his duties hereunder, shall request of the said Federal Trade Commission that it make investigations and report in any case.

SEC. 407. The Secretary may make such rule, regulations, and orders as may be necessary to carry out the provisions of this Act and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this Act in the District of Columbia and elsewhere, and as may be appropriated for by Congress, and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

SEC. 408. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—LIVE POULTRY DEALERS AND HANDLERS⁴

SEC. 501. The handling of the great volume of live poultry required as an article of food for the inhabitants of large centers of population is attendant with various unfair, deceptive, and fraudulent practices and devices, resulting in the producers sustaining sundry losses and receiving prices far below the reasonable value of their live poultry in comparison with prices of other commodities and in unduly and arbitrarily enhancing the cost to the consumers. Such practices and devices are an undue restraint and unjust burden upon interstate commerce and are a matter of such grave concern to the industry and to the public as to make

⁴ Amended by an act of Congress, approved August 14, 1935.

it imperative that steps be taken to free such commerce from such burden and restraint and to protect producers and consumers against such practices and devices.

SEC. 502. (a) The Secretary of Agriculture is authorized and directed to ascertain from time to time and to designate the cities where such practices and devices exist to the extent stated in the preceding section and the markets and places in or near such cities where live poultry is received, sold, and handled in sufficient quantity to constitute an important influence on the supply and price of live poultry and poultry products. On and after the effective date of such designation, which shall be publicly announced by the Secretary by publication in one or more trade journals or in the daily press or in such other manner as he may determine to be adequate for the purpose approximately thirty days prior to such date, no person other than packers as defined in title II of said Act and railroads shall engage in, furnish, or conduct any service or facility in any such designated city, place, or market in connection with the receiving, buying, or selling, on a commission basis or otherwise, marketing, feeding, watering, holding, delivering, shipping, weighing, unloading, loading on trucks, trucking, or handling in commerce of live poultry without a license from the Secretary of Agriculture as herein authorized valid and effective at such time. Any person who violates any provision of this subsection shall be subject to a fine of not more than \$500 or imprisonment of not more than six months, or both.

(b) Any person desiring a license shall make application to the Secretary, who may by regulation prescribe the information to be contained in such application. The Secretary shall issue a license to any applicant furnishing the required information unless he finds after opportunity for a hearing that such applicant is unfit to engage in the activity for which he has made application by reason of his having at any time within two years prior to his application engaged in any practice of the character prohibited by this Act or because he is financially unable to fulfill the obligations that he would incur as a licensee.

SEC. 503. Sections 202, 401, 402, 403, and 404 of said Act are amended by the addition of the words "or any live poultry dealer or handler" after the word "packer" wherever it occurs in said sections. The term "live poultry dealer" means any person engaged in the business of buying or selling live poultry in commerce for purposes of slaughter either on his own account or as the employee or agent of the vendor or purchaser.

SEC. 504. The provisions of sections 305 to 316, both inclusive, 401, 402, 403, and 404 of said Act shall be applicable to licensees with respect to services and facilities covered by this title and the rates, charges, and rentals therefor except that the schedules of rates, charges, and rentals shall be posted in the place of business of the licensee as prescribed in regulations made by the Secretary.

SEC. 505. Whenever the Secretary determines, after opportunity for a hearing, that any licensee has violated or is violating any of the provisions of this title, he may publish the facts and circumstances of such violation and by order suspend the license of such offender for a period not to exceed ninety days and if the violation is flagrant or repeated he may by order revoke the license of the offender.

EXTRACTS FROM FEDERAL TRADE COMMISSION ACT

AN ACT TO CREATE A FEDERAL TRADE COMMISSION, TO DEFINE ITS POWERS AND DUTIES, AND FOR OTHER PURPOSES

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SEC. 4. That the words defined in this section shall have the following meaning when found in this Act, to wit:

"Commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

"Corporation" means any company or association, incorporated or unincorporated, which is organized to carry on business for profit and has shares of capital or capital stock, and any company or association, incorporated or unincorporated, without shares of capital or capital stock, except partnerships, which is organized to carry on business for its own profit or that of its members.

"Documentary evidence" means all documents, papers, and correspondence in existence at and after the passage of this Act.

"Acts to regulate commerce" means the act entitled "An Act to regulate commerce," approved February fourteenth, eighteen hundred and eighty-seven, and all acts amendatory thereof and supplementary thereto.

"Antitrust acts" means the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; also the sections seventy-three to seventy-seven inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August twenty-seventh, eighteen hundred and ninety-four; and also the Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February twelfth, nineteen hundred and thirteen.

* * * * *

SEC. 6. That the Commission shall also have power—

(a) To gather and compile information concerning and, to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the Act to regulate commerce, or any class of them, or any of them, respectively, to file with the Commission in such form as the Commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the Commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the Commission may prescribe, and shall be filed with the Commission within such reasonable period as the Commission may prescribe, unless additional time be granted in any case by the Commission.

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation, and the report shall be made public in the discretion of the Commission.

(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.

(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

(f) To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act.

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

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SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the Commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this Act, and shall detail from time to time such officials and employees to the Commission as he may direct.

SEC. 9. That for the purposes of this Act the Commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corpo-

ration being investigated or proceeded against; and the Commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the Commission may sign subpoenas, and members and examiners of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the Commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the Commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the Commission made in pursuance thereof.

The Commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission as hereinbefore provided.

Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No person shall be excused from attending and testifying or from producing documentary evidence before the Commission or in obedience to the subpoena of the Commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the Commission in obedience to a subpoena issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the Commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the Commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than

\$1,000 nor more than \$5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the Commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the Commission who shall make public any information obtained by the Commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 11. Nothing contained in this Act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust acts or the acts to regulate commerce, nor shall anything contained in the Act be construed to alter, modify, or repeal the said antitrust acts or the acts to regulate commerce or any part or parts thereof.

APPENDIX

An Act of Congress, approved July 22, 1942 (Public No. 674, 77th Congress), entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1943, and for other purposes," contains the following provision:

Packers and Stockyards Act: For carrying out the provisions of the Packers and Stockyards Act, approved August 15, 1921, as amended by the act of August 14, 1935 (7 U. S. C. 181-229), \$389,544: *Provided*, That the Secretary of Agriculture may require reasonable bonds from every market agency and dealer, under such rules and regulations as he may prescribe, to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of said Act he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary of Agriculture or a court of competent jurisdiction: . . .

